

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5384 of 1997

For Approval and Signature:

Hon'ble MR.JUSTICE B.C.PATEL

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KODINAR TALUKA SAHAKARI KHARIDVECHAN SANGH LIMITED

Versus

STATE OF GUJARAT

Appearance:

MR PS CHAMPANERI for Petitioners (Absent)

GOVERNMENT PLEADER for Respondent No. 1 (Absent)

MR TUSHAR MEHTA for Respondent No. 4

CORAM : MR.JUSTICE B.C.PATEL

Date of decision: 03/03/99

ORAL JUDGEMENT

This matter was called out in the first session and as learned advocates were not present, the matter was kept back. In the second session when this matter was called out, learned advocate for the petitioner is not present; Mr. Tushar Mehta, learned advocate for the respondent is present.

Mr. Mehta submitted that this petition requires to be dismissed only on the short ground that the petitioner has filed this petition by making false averments. He invited the attention of the Court to paragraph 2 of the petition wherein it is specifically stated by the petitioner on oath that "after the last election which was held in the year 1982-83, no election is held since the respondent No.5 wants to stick to power and he is fully aware that he has lost majority confidence" It is further averred in the same paragraph that the "respondent No.4 Society is a specified Co-Operative Society and therefore, elections are required to be conducted in accordance with the

provisions contained in Chapter 11.A of the Co-Operative Societies Act, 1961 [hereinafter referred to as the Act] read with provisions of Gujarat Specified Co-Operative Societies Election to Committees Rules 1982.

Mr. Mehta has also taken me through the affidavit-in-reply filed on behalf of the respondents No. 4 and 5 which is sworn by one J.B. Vala, Manager of Kodinar Taluka Banking Union Limited. It is pointed out by him in paragraph 5 that :-

" ... election for filling up the vacancies caused by retirement of 1/3rd Directors by rotation is being held from the beginning. However, since the petitioner has made a false statement on oath contending that after 1982-1983 no elections are held, I beg to annex herewith a table showing the details regarding the elections held every year after the year 1983-1984 upto the last election which was held on 8th July 1997."

The table produced contains the year of election, date of election, name of the Director who was elected and the constituency from which such Director was elected. It is further stated on oath in the said affidavit that public advertisements were issued by the Returning Officer in accordance with the election Rules with respect to the year 1994, 1995, 1996 and 1997 and copies of such public advertisements are also produced along with the affidavit. The programme of election from 1994 is also produced along with the said affidavit. Thus, it is clear that the petitioner has come out with a false statement that elections are not being held by the Society.

Even with regard to the contention that the Society is a specified Society, Mr. Mehta has pointed out the Society is not a specified Society. He has pointed out my attention to the orders passed by the Court in this regard and the appeal in this regard is pending and the interim relief is continuing. In this view of the matter, it cannot be said that the Society is a 'specified Society'. Therefore, election of the Board of Directors of the Society is not required to be conducted in accordance with the provisions contained in Chapter XI.A of the Act. It is further submitted that Mr. Mehta that though the affidavit in reply was served on the petitioner long ago, no rejoinder is filed.

In the aforesaid view of the matter, this petition requires to be dismissed with cost as false

averments are made. The petition stands dismissed with cost. The cost is quantified at Rs.3000/- (Rupees three thousand only). Notice is discharged.

csm./ . -----